

116TH CONGRESS 2D SESSION

S. 3741

To require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage for services furnished via telehealth if such services would be covered if furnished in person during the COVID-19 emergency.

IN THE SENATE OF THE UNITED STATES

May 14, 2020

Ms. Smith (for herself, Ms. Stabenow, Mr. Cardin, Mr. Casey, Mr. Udall, Mrs. Shaheen, Ms. Harris, Ms. Klobuchar, and Mr. Markey) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage for services furnished via telehealth if such services would be covered if furnished in person during the COVID-19 emergency.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Health Care at Home
- 5 Act of 2020".

1	SEC. 2. REQUIRING GROUP HEALTH PLANS AND HEALTH
2	INSURANCE ISSUERS OFFERING GROUP OR
3	INDIVIDUAL HEALTH INSURANCE COVERAGE
4	TO PROVIDE COVERAGE FOR SERVICES FUR-
5	NISHED VIA TELEHEALTH IF SUCH SERVICES
6	WOULD BE COVERED IF FURNISHED IN PER-
7	SON DURING THE COVID-19 EMERGENCY.
8	(a) In General.—During any portion of the emer-
9	gency period described in section $1135(g)(1)(B)$ of the So-
10	cial Security Act (42 U.S.C. 1320b–5(g)(1)(B)), notwith-
11	standing sections 2703 and $2715(d)(4)$ of the Public
12	Health Service Act (42 U.S.C. $300gg-2$, $300gg-15(d)(4)$),
13	a group health plan and a health insurance issuer offering
14	group health insurance coverage, including a grand-
15	fathered health plan (as defined in section 1251(e) of the
16	Patient Protection and Affordable Care Act (42 U.S.C.
17	18011(e)))—
18	(1) shall—
19	(A) provide benefits under such plan or
20	such coverage for any eligible service (as de-
21	fined in subsection (c)), including a mental
22	health and substance use disorder service, fur-
23	nished via a qualifying telecommunications sys-
24	tem (as defined in subsection (c)) by a health
25	care provider to an individual who is a partici-
26	pant, beneficiary, or enrollee under such plan or

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such coverage, notwithstanding that such provider furnishing such service is not at the same location as the individual;

- (B) so provide such benefits for such service under the same terms and with application of the same cost-sharing requirements (including a deductible, copayment, or coinsurance) as would apply if such service were furnished by such provider to such individual in person;
- (C) reimburse such provider for such service in an amount equal to the amount of reimbursement for such service had such service been furnished by such provider to such individual in person;
- (D) not impose any requirement under such plan or coverage that such provider have a prior relationship with such individual; and
- (E) not restrict the ability of any health care provider with a contractual relationship for furnishing an eligible service under such plan or coverage from furnishing such service via a qualifying telecommunications system, and shall not establish incentives or penalties under such plan or coverage for receiving such an eligible

- service from such a provider via such a system;

 and
- (2) may waive any cost-sharing requirement (including application of a deductible, copayment, or coinsurance) for an item or service furnished for purposes of diagnosing or treating COVID-19, including any such service that is an eligible service furnished via a qualifying telecommunications system.
- 10 (b) APPLICATION.—The provisions of this section 11 shall be applied by the Secretary of Health and Human 12 Services, Secretary of Labor, and Secretary of the Treasury to group health plans and health insurance issuers offering group or individual health insurance coverage as if 14 15 included in the provisions of part A of title XXVII of the Public Health Service Act, part 7 of the Employee Retirement Income Security Act of 1974, and subchapter B of 18 chapter 100 of the Internal Revenue Code of 1986, as ap-19 plicable.
- 20 (c) Definitions.—In this section:
- 21 (1) ELIGIBLE SERVICE.—The term "eligible 22 service" means, with respect to a group health plan 23 and a health insurance issuer offering group or indi-24 vidual health insurance coverage, a service—

- 1 (A) for which benefits are provided under 2 such plan or such coverage when such service is 3 furnished in person;
 - (B) that is medically necessary (as determined by the health care provider furnishing such service); and
 - (C) that is able to be safely and effectively furnished via a telecommunications system.
 - (2) Health Insurance Terms.—The terms "group health plan", "health insurance issuer", "group health insurance coverage", and "individual health insurance coverage" have the meanings given such terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), section 733 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b), and section 9832 of the Internal Revenue Code of 1986, as applicable.
 - (3) QUALIFYING TELECOMMUNICATIONS SYSTEM.—The term "qualifying telecommunications system" means a telecommunications system that includes, at a minimum, audio capabilities permitting two-way, real-time interactive communication between the individual receiving an eligible service via such system and the health care provider furnishing such system, including a telephone,

- 1 videoconferencing system, internet communications
- 2 system, streaming media communications system,
- 3 and such other systems as specified by the Secretary
- 4 of Health and Human Services.
- 5 (d) Effective Date.—This section shall apply with
- 6 respect to items and services furnished on or after the first
- 7 day of the emergency period described in subsection (a).

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